

REMARKS

The Office Action dated August 12, 2002, has been received and carefully considered. Claims 1-10 are pending in the present application.

In this response, claims 2-10 have been added, the specification and claim 1 have been amended, and amendments to the drawings have been proposed. Entry of added claims 2-10, and the amendments to the specification and claim 1 is respectfully requested. Approval of the proposed amendments to the drawings is also respectfully requested. Reconsideration of the outstanding objections/rejections in the present application is further respectfully requested based on the following remarks.

I. THE OBJECTION TO THE SPECIFICATION

On page 2 of the Office Action, the specification was objected to for an informality.

The specification has been amended to address the informality concerning the Examiner.

II. THE INDEFINITENESS REJECTION OF CLAIM 1

On page 2 of the Office Action, claim 1 was rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the

invention. This rejection is hereby respectfully traversed with amendment.

The Examiner asserts that the terms "each pivoting" and "pivoting along" are unclear.

Claim 1 has been amended to address the concerns of the Examiner.

### III. THE OBVIOUSNESS REJECTION OF CLAIM 1

On page 3 of the Office Action, claim 1 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Costello (U.S. Patent No. 5,502,851) in view of Tsuga (U.S. Patent No. 6,260,218). This rejection is hereby respectfully traversed.

As stated in MPEP § 2143, to establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). Also, as

stated in MPEP § 2143.01, obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988); *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. *In re Mills*, 916 F.2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990). Further, as stated in MPEP § 2143.01, to establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). That is, "[a]ll words in a claim must be considered in judging the patentability of that claim against the prior art." *In re Wilson*, 424 F.2d 1382, 165 USPQ 494, 496 (CCPA 1970). Additionally, as stated in MPEP § 2141.02, a prior art reference must be considered in its entirety, i.e., as a whole, including portions that would lead away from the claimed invention. *W.L. Gore & Associates, Inc. v. Garlock, Inc.*, 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983), cert. denied, 469 U.S. 851 (1984). Finally, if an independent claim is nonobvious under 35 U.S.C. 103, then any claim

depending therefrom is nonobvious. *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988).

The Examiner asserts that Costello teaches the present invention substantially as claimed, except for teaching that the support and handle assembly is attached to the main cross member via hinge means for pivoting about a substantially horizontal axis. The Examiner also asserts that Tsuga teaches a portable support apparatus with a support and handle assembly attached to the main cross member via hinge means for pivoting about a substantially horizontal axis. The Examiner goes on to assert that it would have been obvious to combine the teachings of Costello and Tsuga to arrive at the present invention as claimed.

Claim 1 has been amended to include additional language intended to show that the claimed support and handle assembly is attached to the claimed main cross member via hinge means for pivoting about a substantially horizontal axis between a substantially vertical position and a substantially horizontal position. This configuration allows the claimed portable support apparatus to be easily stowed and transported when the claimed support and handle assembly is in the substantially horizontal position. In contrast, Tsuga fails to teach and thus allow for such easy stowage and transportation. In fact, Tsuga fails to teach or suggest that its tubular support post 5 is

attached to base frame 41 in any manner. Rather, Tsuga teaches that front led 3 is attached to base frame 41 via support shaft 32 or 71. This totally opposite from the claimed configuration wherein the claimed support and handle assembly is attached to the claimed main cross member via hinge means for pivoting about a substantially horizontal axis between a substantially vertical position and a substantially horizontal position. Accordingly, Tsuga does not teach this claimed feature.

Furthermore, there is nothing in Costello that would suggest a benefit for having the vertical mast assembly 41 pivot about a substantially horizontal axis between a substantially vertical position and a substantially horizontal position. Indeed, the vertical mast assembly 41 is so named because it always remains in a vertical position.

In view of the foregoing, it is respectfully submitted that the obviousness rejection of claim 1 is improper, and the withdrawal of such rejection is respectfully requested.

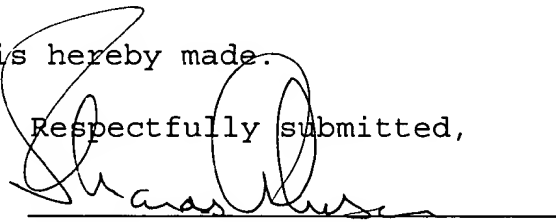
At this point it should be noted that amendments to Figures 1-4 and 6 have been proposed to correct inaccurate reference designators. Approval of the replacement drawings for Figures 1-4 and 6, which are submitted herewith in a Request for Approval of Replacement Drawings, is respectfully requested.

#### IV. CONCLUSION

In view of the foregoing, it is respectfully submitted that the present application is in condition for allowance, and an early indication of the same is courteously solicited. The Examiner is respectfully requested to contact the undersigned by telephone at the below listed telephone number, in order to expedite resolution of any issues and to expedite passage of the present application to issue, if any comments, questions, or suggestions arise in connection with the present application.

To the extent necessary, a petition for an extension of time under 37 CFR § 1.136 is hereby made.

Respectfully submitted,



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APPENDIX A

According to the present invention, a portable support apparatus and method is provided for assisting persons with disabilities when being lifted or transferred from one location to another. The present invention portable support apparatus has two legs pivoting about a substantially vertical axis from the ends of a main cross member limited in their motion by two locking pins and detent holes. To each end of the legs is attached a caster assembly pivoting about a substantially vertical axis. Attached to the main cross member [19] via [a] hinge means about [along] a substantially horizontal axis, is a [vertical] support and handle assembly containing mounting pins suitable for attachment of a lifting and transfer device.

AI  
In accordance with other aspects of the present invention, the [vertical] support and handle assembly can be pivoted about [a hinge attached to the main cross member about] a substantially horizontal axis such that the handle will align itself with recessed areas in between the casters at the end of the legs and the main supports of the legs when the legs are released by means of the leg locking pin, and adjusted to their inboard position detents. The end result of this action is to allow the user to lift the assembly by the handle without further need for adjustments or connections, and, using the casters on the opposite ends of the legs as functional wheels,

easily push or pull the collapsed assembly without lifting its entire weight. The offset location of the caster axle and the width of the casters permit the casters to immediately center themselves such that, when pushed, the unit will track straight.

A In accordance with further aspects of the present invention, the [vertical] support and handle assembly incorporates a locking blade and corresponding pin attached to the main cross member which allows for convenient release and securement of the [vertical] support and handle when moving from a substantially vertical orientation to a horizontal stowed position.

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APPENDIX B

AD  
Cross member 19 is connected to [upright] support and handle assembly 30 via [upright] support hinge 22, which is oriented on a substantially horizontal axis, allowing [upright] support and handle assembly 30 to pivot along a substantially vertical plane, with sufficient range of motion to rotate from a substantially vertical orientation in which locking pin 26 may engage [into] hole 27 of locking blade 28 to a position below the plane of legs 16. Lift support pin assembly 34 is securely fastened to [vertical] support and handle assembly 30 for purposes of supporting a variety of lifting and transferring apparatuses 11, such as for example the lifting and transferring apparatus disclosed in U.S. Patent No. 6,042,330. It should be noted that lift support pin assembly 34 comprises a motion-limiting collar which prevents lifting and transferring apparatus 11 from undesirable sideward rotation and, thus, risk of tipping when the lift rotates to such position that the load center is outside the support base of portable support apparatus 10.

APPENDIX C

Sub 17  
C  
1. (Currently Amended). A portable support apparatus

comprising:

a main cross member having a first end and a second end;

A3  
a first leg and a second leg each having a first end and a second end, the first leg pivoting at a first end thereof about a substantially vertical axis at the first end of the main cross member, the second leg pivoting at a first end thereof about a substantially vertical axis at the second end of the main cross member[, the first and second legs limited in their motion by two locking pins and detent holes];

a plurality of caster assemblies attached to the first and second ends of the first and second legs, each of the plurality of caster assemblies pivoting about a substantially vertical axis; and

a [vertical] support and handle assembly attached to the main cross member via hinge means for pivoting [along] about a substantially horizontal axis between a substantially vertical position and a substantially horizontal position[, the vertical support and handle assembly including mounting pins suitable for attachment of a lifting and transfer device].

A4  
2 (New). ~~The portable support apparatus of claim 1, wherein the~~

first and second legs are limited in their motion by a pair of locking pins and detent holes formed in the first and second legs and the main cross member.

3 (New). The portable support apparatus of claim 1, wherein a portion of the support and handle assembly engages with the first and second legs when in the substantially horizontal position for easy stowage and transport.

4 (New). The portable support apparatus of claim 1, wherein the support and handle assembly comprises mounting pins suitable for attachment of a lifting means.

5 (New). The portable support apparatus of claim 4, wherein the support and handle assembly further comprises a first substantially vertical portion attached to the main cross member via hinge means, a substantially horizontal portion connected to the first substantially vertical portion, and a second substantially vertical portion connected to the substantially horizontal portion, such that an attached lifting means has a center of gravity that substantially coincides with a central point of the plurality of caster assemblies.

6 (New). The portable support apparatus of claim 5, further

comprising:

a motion-limiting assembly for attachment to the attached lifting means for preventing the center of gravity of the attached lifting means from moving substantially away from the central point of the plurality of caster assemblies.

7 (New). The portable support apparatus of claim 6, further comprising:

an electrical interlock switch for preventing the attached lifting means from operating if the motion-limiting assembly is not properly installed.

8 (New). The portable support apparatus of claim 4, wherein the support and handle assembly comprises means for adjusting the vertical location of the mounting pins.

9 (New). The portable support apparatus of claim 1, further comprising:

locking means formed on the support and handle assembly and the main cross member for securing the support and handle assembly in the substantially vertical position.

10 (New). The portable support apparatus of claim 9, wherein the locking means comprises a locking pin assembly formed on the

A4  
~~main cross member for engaging with a locking blade formed on  
the support and handle assembly.~~

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